

Applicant: Bernalillo County
Zoning, Building, Planning &
Environmental Health Department
111 Union Station St. SE
Albuquerque, NM 87111

Property Owner: Mary C. Montano
P.O. Box 10331
Albuquerque, NM 87184

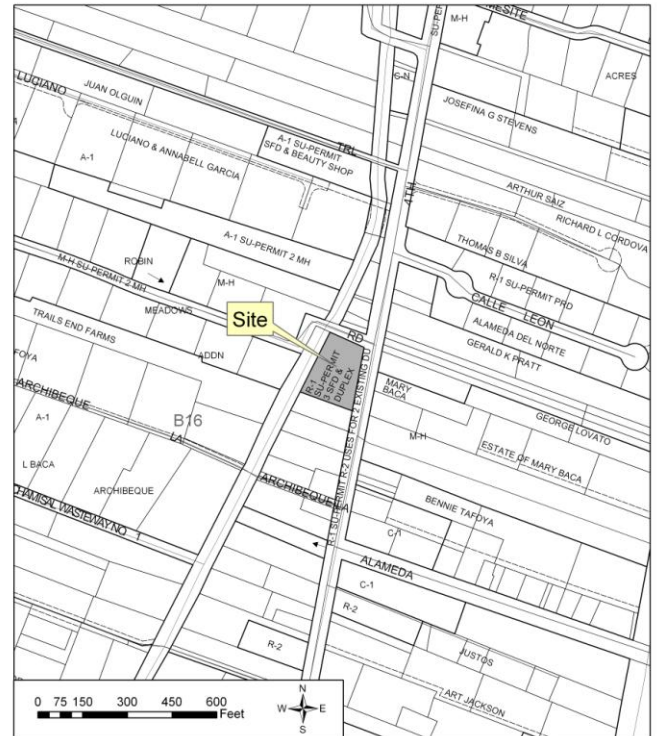
Location: 10031 Fourth St. NW

Property Size: .78 acres (approximately)

Existing SUP: Special Use Permit for Three
Single Family Dwellings and
a Duplex

Zoning: R-1

Recommendation: Cancellation



Summary: The Zoning, Building, Planning & Environmental Health Department is recommending the cancellation of an existing Special Use Permit for Three Single Family Dwellings and a Duplex (CZ-81-2) on a property located on the west side of Fourth St. to the south of Robin Meadow Rd. The property is currently in violation of the Special Use Permit in that inoperative vehicles and wood are being stored on it. Despite letters from the Zoning Enforcement Office, the property owner has neither abated the violations nor made application to amend the SUP to allow for the activities and current site configuration.

Staff Contact: Catherine VerEecke, Program Planner

Attachments:

1. Notice of Special Use Permit (3/18/81)
2. Notices of violation (2005, 2009)
3. Notice of intent to cancel SUP (April 27, 2010)
4. Zone atlas page, land use map
5. Approved site plan (3/18/81) (Commissioners only)

CZ-81-2 Zoning, Building, Planning & Environmental Health Department requests cancellation of a Special Use Permit for Three Single Family Dwellings and a Duplex on Tract 58C, MRGCD Map # 23, located at 10031 4th Street NW, zoned R-1, and containing approximately .78 acres. (B-16)

AREA CHARACTERISTICS AND ZONING HISTORY

Surrounding Zoning & Land Uses

	Zoning	Land use
Site	R-1/Special Use Permit for 3 Single Family Dwellings & Duplex	3 homes, apartment
North	R-1	Vacant, Single family residential
South	M-H	Single family residential
East	M-H	Single family residential
West	M-H	Mobile homes

BACKGROUND

Special Use Permit History & Overview

On March 17, 1981, the Board of County Commissioners approved a Special Use Permit for a Specific Use for Three Single-Family Dwellings and a Duplex on a .63 acre property located on the west side of Fourth St. on the south side of Robin Meadow Rd. to the north of Alameda Rd. The property is zoned R-1 and has included structures that pre-dated the zoning and were allowed as a non-conforming use. At the time of the application, which originally was for a zone change, there were three dwellings, a partially completed duplex, and a storage building on the property. According to the application, the request sought to keep three of the structures with residential uses and to complete the conversion of the other building into a duplex. The approved site plan for the Special Use Permit, dated 3/18/81, included the five structures.

However, since the approval of the Special Use Permit request in the 1980s, there have been various violations of the Zoning Ordinance and the Special Use Permit. In 2005, staff noted the storage of debris, firewood, inoperative vehicles, and appliances on the property. In 2009, staff noted that debris and inoperative vehicles continued to be located on the property (Attachment 2). In subsequent telephone conversations in 2009, a member of the family that has owned the property stated that the owners are elderly and could not remedy the violations. The family member also indicated that only one of the five dwellings is now being resided in and that the other buildings are unoccupied or being used for storage. However, Building and Zoning staff were not able to enter the property to confirm the uses or the condition of the buildings.

Most recently, follow-up inspections by staff have revealed that the property remains in violation, including inoperative/antique cars and firewood stored on the site. A relative of the property owner has continued to indicate the family's inability to address the violations (e.g., to remove the inoperative/antique cars). The relative has also stated that only one of the structures on the site is being lived in and that there is no intention to return the property to the approved residential uses.

Subject Site & Surrounding Properties

The property is located on the west side of Fourth St. on the south side of Robin Meadow Rd., about 700 feet north of Alameda Rd. The property's western boundary is the Chamisal Lateral.

The area of the site is primarily residential with M-H or R-1 zoning. The property to the north/northwest has R-1 zoning with a single family dwelling on it. The properties to the west (across the Chamisal Lateral) are within the Robin Meadows Subdivision and have M-H zoning mainly with mobile homes on them. Along Fourth St., the uses are more varied, including residential uses and a few Special Use Permits, some of which are for multiple single family dwellings (e.g., CZ-20003) or small businesses, such as beauty shops (e.g., CSU-84-28). A few properties nearby the site also have C-1 zoning along Fourth St. with commercial or residential uses.

APPLICABLE REGULATIONS & POLICIES

Comprehensive Zoning Ordinance of Bernalillo County

Section 18. Special Use Permit Regulations.

H. Violation of the approved development plan or any condition imposed by the Board of County Commissioners in approving an application filed under this section shall constitute a violation of this ordinance and shall be subject the permit to cancellation pursuant to this section.

1. Procedures for Cancellation:

(a) The Zoning Administrator or his designee has the duty of routinely inspecting the Special Use Permit to insure compliance with the approved development plan and conditions imposed by the Board of County Commissioners.

(b) If the Zoning Administrator or his designee shall find that any of the conditions of the approved development plan or the conditions imposed by the Board of County Commissioners have not been complied with, they shall notify in writing, the owner, tenant, agent, occupant, or person in charge of the premises, indicating the nature of the violation and ordering its correction within 30 days.

(c) In an event that a violation of the approved development plan or conditions imposed by the Board of County Commissioners continues, the Zoning Administrator or his designee may institute the appropriate action to cancel the Special Use Permit pursuant to this section of proceed against the owner, tenant, agent, occupant, or person in charge of the premises, pursuant to the Penalty section of this Ordinance.

(d) Any violation of the approved development plan or conditions imposed by the Board of County Commissioners that continues for a period of 30 days after notification by certified mail receipt return requested shall subject the Special Use Permit to cancellation pursuant to the process outlined under Section 18.E., Subsections 1, 2, and 3. In the event that the Special Use Permit is cancelled, all references to said Special Use Permit shall be removed from the official zoned maps by the County Planning Department.

2. In the event a use authorized by a Special Use Permit is not established within 12 months of the date of approval or is discontinued for a period of 12 months, the County Planning Department shall send notification by certified mail return receipt requested requiring the property owner, tenant, agent, occupant, or person in charge of the premises to state in writing within 30 days his or her intention to establish or continue said permit. If the property owner, tenant, agent, occupant, or person in charge of the premises does not declare in writing his or her intention to establish or continue said permit, then authorization or approval may be cancelled and relevant documents, if any, shall be removed from the official zone maps by the County Planning Department.

ANALYSIS

This request seeks to cancel a Special Use Permit for a Specific Use for Three Single-Family Dwellings and a Duplex on a .63 acre property located on the west side of Fourth St. on the south side of Robin Meadow Rd. (CZ-81-2). The Special Use Permit allowed the conversion of

an existing structure into a duplex, in addition to the three other dwelling units that pre-dated County Zoning. Since the 1990s, there have been several violations on the property, including the storage of debris and inoperative vehicles. Recent inspections found the following violations of the approved site plan:

- 1) storage of inoperative/antique cars
- 2) open storage of fire wood

The current property owner was notified of the on-going violations on the property beginning in November of 2009 and received a notice from Zoning Administrator in April 2010 stating the intent to cancel the Special Use Permit. A family representative has stated in conversations with Planning staff that the family of the property owner (who apparently is deceased) is unable to remove the cars and materials from the site and that only one of the dwelling units is being used as a residence. The representative also indicated that there is no intention to re-establish the approved uses on the property, but staff has not received written confirmation of the family's intent.

This property is zoned R-1 and this Special Use Permit has allowed an additional dwelling (duplex) on the property, in addition to the three dwellings that already existed on the property. As Special Use Permits authorize uses that are not expected or generally allowed to occur within a zone, compliance with any and all limitations is of the utmost importance. With the existing violations, the subject property negatively impacts the residential subdivision in which it is located, and no effort has been made by the property owner to address the violations. Staff is therefore recommending cancellation of this Special Use Permit for Three Single-Family Dwellings and a Duplex (CZ-81-2).

Proposed Findings for Cancellation

1. This is a request for the cancellation of a Special Use Permit for Three Single Family Dwellings and a Duplex on Tract 58C, MRGCD Map # 23, located at 10031 4th Street NW, zoned R-1, and containing approximately .78 acres.
2. This matter is a result of continued violations of the Special Use Permit (CZ-81-2) and the failure to comply with the site development plan approved by the Board of County Commissioners on 3/18/81. The violations have included the storage of inoperative/antique cars and firewood. It also appears that the approved uses no longer exist on the site, with the exception of one single-family dwelling unit.
3. On April 27, 2010 the Bernalillo Zoning Administrator notified the property owner of noncompliance with the provisions of the Special Use Permit, as described in Section 18.H. of the Comprehensive Zoning Ordinance of Bernalillo County.
4. This decision removes the Special Use Permit (CZ-81-2) from the property, and reverts the zoning on the site back to the underlying zoning designation of R-1 (Single-Family Residential).

RECOMMENDATION:

Cancellation of CZ-81-2.

Catherine VerEecke
Program Planner